

## **REMARKS**

This Amendment is fully responsive to the non-final Office Action dated July 6, 2009, issued in connection with the above-identified application. Claims 2-4, 6-8 and 16-25 are pending in the present application. With this Amendment, claims 2, 3, 6-8, 16, 18, 20 and 21 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

### **I. Discussion with Examiner**

The Applicants thank Examiner Pardo for discussing the outstanding rejection under 35 U.S.C. 101 with the Applicants' representative on September 17, 2009. During the discussion, claim amendments to address the 101 rejection were suggested. Specifically, the Examiner suggested amending independent claims 2, 3, 6-8, 16 and 18 to include "a computer-readable storage medium," which is a structural element supported by the Applicants' disclosure. The Examiner also indicated that it would be sufficient to add "a computer-readable storage medium" to the preamble of the independent method claims (i.e., claims 16 and 18). It was also agreed that independent claims 17 and 19 do not require any amendments because the claims already recite "a computer-readable storage medium."

### **II. Allowable Subject Matter**

In the Office Action, the Examiner indicates that claims 2-4, 6-8 and 16-25 are allowed. That is, claims 20-25 have been allowed, and claims 2-4, 6-8 and 16-19 would be allowed if amended to overcome the rejection under 35 U.S.C. 101. The Applicants have amended independent claims 2, 3, 6-8, 16 and 18 to address the rejection under 35 U.S.C. 101. No amendments were necessary for independent claims 17 and 19 (i.e., the program claims). Claims 2-4, 6-8 and 16-25 are now believed to be in condition for allowance.

### **III. Rejection under 35 U.S.C. 101**

In the Office Action, claims 2-4, 6-8 and 16-19 have been rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter. Specifically, the Examiner alleges that claims 2-4, 6-8 and 16-19 neither result in any physical transformation, nor recite a practical application within the technological arts. In other words, claims 2-4, 6-8 and 16-19 are considered a mere

manipulation of abstract ideas because the claims are lacking in any hardware.

The Applicants have amended independent claims 2, 3, 6-8, 16 and 18 to add additional structure to the claims. The amendments to claims 2, 3, 6-8, 16 and 18 are consistent with the suggestions made by the Examiner during the telephone conversation on September 17, 2009.

That is, independent claims 2, 3 and 6-8 have been amended to include respectively “a computer-readable medium,” which (as noted by the Examiner) is a hardware device that is fully supported by the Applicants’ disclosure (see e.g., pg. 4, lines 5-17). Additionally, independent claims 16 and 18 have been amended to include the similar structure added to independent claims 2 and 3.

With regard to independent claims 17 and 19, the claims are directed to programs. Additionally, both independent claims 17 and 19 recite “[a] program stored on a computer-readable storage medium.” According to MPEP 2106.01, “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. *In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994). (Emphasis added). Accordingly, no amendments are necessary to independent claims 17 and 19, because the claims are already directed to statutory subject matter.

Based on the above discussion, withdrawal of the rejection under 35 U.S.C. 101 is now respectfully requested.

The Examiner indicates that claims 20-25 have been allowed, and claims 2-4, 6-8 and 16-19 would be allowed if amended to overcome the rejection under 35 U.S.C. 101. As noted above, the Applicants have amended the claims to address the rejection under 35 U.S.C. 101. Accordingly, claims 2-4, 6-8 and 16-25 are now believed to be in condition for allowance.

#### IV. Conclusion

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass the present application to issue.

The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues.

Respectfully submitted,

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